

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 989 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

RAMESHBHAI ZINABHAI RATHODIA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Appeal No. 989 of 1994
MR PM VYAS for the appellant
Mr. I.M. Pandya, APP for Respondent No. 1
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CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 24/02/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE M.H.KADRI)

1. Appellant, original accused No.1, by filing this appeal under Section 374(2) of the Code of Criminal Procedure, ('Code' for short), has challenged the judgment and order dated September 20, 1994, passed by the learned Additional Sessions Judge, Panchmahals, at Godhra, in Sessions Case No.198 of 1993, by which judgment and order, the appellant was convicted under Sections 302 and 201 of the Indian Penal Code ("IPC" for short), and sentenced to undergo R.I. for life. However, no separate punishment was imposed on the appellant for the offence under Section 201 of the IPC. The appellant, however, came to be acquitted from the charges framed under Section 135 of the Bombay Police Act. The original accused Nos. 2 to 7, however, came to be acquitted from the charges framed under Sections 302, 201 read with Section 114 of the Indian Penal Code.

2. The prosecution case, in a nut-shell, is as under: The appellant was a resident of village Gatmuvada, Taluka Halol, District Panchmahal. The appellant had previously married a lady and, out of the said wedlock, one son, Shantilal, was born and was staying with the appellant at the time of the incident. The record indicates that the appellant had married with one Ganga who was previously divorced by her first husband. The appellant, his wife Ganga, and son Shantilal were staying in the locality known as Navi Vasahat. The parents of the appellant were residing in the old house situated in the same village.

3. On July 18, 1993, around 2.30 a.m., one Shantibhai Motibhai (original accused No.4) and P.W.10, Kanchanlal Kalidas Patel of village Gatmuvada had come to the house of P.W.1, Sikanderbhai Kamrubhai Malek, who was the Deputy Sarpanch of Madhasar Group Gram Panchayat. The above two persons had informed P.W.1, Sikanderbhai Kamrubhai Malek, that the appellant had killed his wife, Ganga. The abovestated two persons requested the Deputy Sarpanch to come to village Gatmuvada. P.W.1, Sikanderbhai Kamrubhai Malek, arrived at village Madhasar and informed the Sarpanch, P.W.7, Fatesinh Vajebhai, about the incident which had taken place at village Gatmuvada. The Sarpanch directed P.W.1, Sikanderbhai Kamrubhai Malek, to go to village Gatmuvada and, after making enquiry, to lodge First Information Report before the Police Station. Accordingly, P.W.1, Sikanderbhai Kamrubhai Malek, had travelled to the village on his motor-cycle, Suzuki, and had reached village Gatmuvada around 5.15 to 5.30 a.m. in the early morning of July

19, 1993. P.W.1, Sikanderbhai Kamrubhai Malek, had visited the house of the appellant situated in the locality of Navi Vasahat of village Gatmuvada but the appellant was not found in the said house and, therefore, P.W.1, Sikanderbhai Kamrubhai Malek, had gone to the old house of the appellant situated in the village. The appellant was found sleeping in the house of his parents. The mother of the appellant, namely, Gajrabai, had called the appellant who was sleeping in the house. P.W.1, Sikanderbhai Kamrubhai Malek, had asked the appellant why he had killed his wife, Ganga. The appellant had made a voluntary statement before P.W.1, Sikanderbhai Kamrubhai Malek, that his wife Ganga had tried to kill his son, Shantilal. He disclosed that he had a strong belief that his wife, Ganga, was a witch. The appellant also disclosed before P.W.1, Sikanderbhai Kamrubhai Malek, that, in the night of the incident, there was a scuffle between him and deceased Ganga, wherein, he was first thrown on the ground by deceased Ganga, and, therefore, to save himself from the attack of deceased Ganga, he had inflicted two dharia blows on her neck which had resulted in her death. Thereafter, the appellant, on enquiry, had disclosed to P.W.1, Sikanderbhai Kamrubhai Malek, that he had tied the dead body in two sarees and had thrown the dead body in the ravine. Thereafter, the appellant was taken to the nearest Police Station at Halol for lodging a complaint against him. P.W.1, Sikanderbhai Kamrubhai Malek, had lodged First Information Report before P.W.11, PSI, R.C. Pathak, of Halol Police Station at 14 hours on July 19, 1993. The said First Information Report was registered at CR No.I-208/93 of Halol Police Station against the appellant and other six accused for the offences punishable under Sections 302, 201 and 114 of the Indian Penal Code and under Section 135 of the Bombay Police Act. The investigation of the above case was entrusted to P.W.12 PSI, U.K. Thakore, of Halol Police Station. P.W.12 PSI, Thakore, had gone to the place of the incident, had drawn panchanama of place of incident, and had recorded the statement of eye-witness, Dahyabhai Bhikhabhai. The appellant was arrested under a panchanama of arrest and the physical condition of the appellant was noted therein. While the appellant was in custody, he had shown willingness to show the place where the dead body of deceased Ganga was thrown. Accordingly, two independent panchas were summoned and, in their presence, a preliminary panchanama was drawn at the police station. The appellant had, thereafter, shown the place which was situated near Dhuvar-Ravine, where the dead body was thrown in the water. P.W.12, PSI, Thakore, accompanied by the appellant, two independent panchas, and the police personnel had travelled about 3-4 kms in

the said ravine whereunder the dead body was found which was identified to be of deceased Ganga. Inquest of the dead body was held and it was sent for autopsy. Autopsy of the dead body was performed by P.W.2, Dr. Sunil D. Nagori, who was Medical Officer in the Civil Hospital, Halol. The muddamal dharia, by which the injuries were inflicted on the neck of the deceased, was also discovered by drawing panchanama under Section 27 of the Evidence Act. When the muddamal dharia was seized, there were blood-stains on it. The incriminating articles recovered during investigation were sent to the Forensic Science Laboratory ('FSL' for short) for analysis. P.W.12, PSI, Thakore, had, thereafter, recorded statements of other witnesses and had sent yadi to the Mamlatdar to depute Circle Inspector to draw map of the place of the incident. On receipt the report from the FSL, and on completion of the investigation, P.W.12, PSI, Thakore, had filed chargesheet in the Court of learned Judicial Magistrate, First Class, Halol, against the appellant and other six accused, for the offences punishable under Sections 302, 201 read with Section 114 of the Indian Penal Code and Section 135 of the Bombay Police Act. The said chargesheet came to be registered as Criminal Case No.1764 of 1993. As the offence under Section 302 of the Indian Penal Code is exclusively triable by the Court of Sessions, the learned Judicial Magistrate, First Class, Halol, by order dated November 1, 1993, committed the case to the Court of Sessions, Panchmahals, at Godhra, for trial, where it came to be numbered as Sessions Case No.198 of 1993.

4. Charge Exh.5 was framed against the appellant and other six accused for the offences punishable under Sections 302 and 201 read with Section 114 of the Indian Penal Code and under Section 135 of the Bombay Police Act. The charge was read over and explained to the appellant and other six accused wherein they pleaded not guilty and claimed to be tried. In order to prove charges against the appellant, the prosecution examined the following witnesses. (1) P.W.1, complainant, Sikanderbhai Kamrubhai Malek, Deputy Sarpanch of Madhasar Group Gram Panchayat, Exh.14; (2) P.W.2, Dr. Sunil D. Nagori, Exh.16; (3) P.W.3, Maheshbhai Shankerbhai Patel, panch of panchanama of place of incident, Exh.19; (4) P.W.4, Fatesinh Dhulabhai Rathod, Panch of inquest panchanama, Exh.27; (5) P.W.5, Shanabhai Hirabhai Patel, panch of recovery of muddamal bicycle, Exh.29; (6) P.W.6, Kashiben Bhanabhai, Exh.30; (7) P.W.7, Fatesinh Vajesinh Rathod, Sarpanch of Madhasar Group Gram Panchayat; (8) P.W.8, Circle Officer, Bhagwansinh Deepsinh Parmar, Exh.33; (9) P.W.9, Dahyabhai Gajubhai, eye-witness to the

incident, Exh.35; (10) P.W.10, Kanchanlal Kalidas Patel, Exh.36; (11) P.W.11, PSI, R.C. Pathak, Exh.41; (12) P.W.12, PSI, Udesinh K. Thakore, Investigating Officer, Exh.43; (13) P.W.13, Bhikhabhai Veljibhai, Exh.54; and (14) P.W.14, Hemantbhai Motibhai, Exh.59; The prosecution also produced documentary evidence such as First Information Report, Exh.15, post-mortem notes Exh.17, injury certificate of the appellant Exh.18, panchanama of the place of the incident, Exh.20, discovery panchanama of muddamal dharial Exh 21, panchanama of recovery of axe at the instance of accused No.5, Gajrabai, Exh.22; panchanama of recovery of tube of bicycle, Exh.23, panchanama of recovery of bicycle Exh.24, panchanama of physical condition of the appellant Exh.25, panchanama of place where dead body of Ganga was thrown Exh.26; inquest panchanama Exh.28, panchanama of seizure of bicycle of the appellant Exh.30, report of the surveyor Exh.34; panchanamas of recovery of clothes and other articles found from the dead body of the deceased Exh.37 and 38 and the report of the FSL Exh.49, etc, to prove the case against the appellant and other two accused. After recording of the evidence of the prosecution witnesses was over, the appellant and other six accused were questioned generally and their statements came to be recorded under Section 313 of the Code of Criminal Procedure. In the further statement, the defence of the appellant and other six accused was of general denial. No defence witness was examined by the appellant and other six accused.

5. The learned Additional Sessions Judge, on appreciation of oral as well as documentary evidence, and after hearing the arguments of the learned Additional Public Prosecutor and the learned counsel for the defence, held that the prosecution had proved beyond doubt that deceased Ganga had died homicidal death. It was further concluded that it was proved by the prosecution that on July 18, 1993, around 22.30 hrs, the appellant had inflicted blows with muddamal dharial on the neck of deceased Ganga, which were sufficient in the ordinary course of nature to cause her death. It was deduced by the learned Additional Sessions Judge that the prosecution had proved beyond doubt that the appellant had destroyed evidence of commission of offence, i.e. dead body of deceased Ganga, which was punishable under Section 201 of the Indian Penal Code. On the basis of the abovereferred to conclusions, the learned Additional Sessions Judge, by the impugned judgment and order, convicted the appellant under Sections 302 and 201 of the Indian Penal Code, and sentenced him to undergo R.I. for life, which has given rise to filing of the present

appeal. However, no separate punishment was imposed on the appellant for the offence under Section 201 of the IPC. The appellant came to be acquitted from the charges framed under Section 135 of the Bombay Police Act. The original accused Nos. 2 to 7 were acquitted from the charges levelled against them.

6. Learned advocate, Mr. P.M. Vyas and learned Additional Public Prosecutor, Mr. I.M. Pandya, have taken us through the entire record and proceedings of the appeal.

7. We have carefully examined the record and proceedings and reappreciated oral as well as documentary evidence, and have heard the submissions of the learned advocate for the appellant and learned Additional Public Prosecutor for the respondent.

8. The learned advocate for the appellant has submitted that there was inordinate delay in lodging of the First Information Report. It was submitted that the eye-witnesses turned hostile and did not support the case of the prosecution to connect the appellant with the commission of murder of his wife, Ganga. It was submitted that the alleged extra-judicial confession made by the appellant before PW 1, Sikanderbhai Kamrubhai Malek, and PW 10, Kanchanlal Kalidas Patel, was not reliable and it was a very weak piece of evidence and the learned Additional Sessions Judge has erred in placing reliance on the said confession for convicting the appellant for the offences under Sections 302 and 201 of the Indian Penal Code. That, the findings recorded by the learned Additional Sessions Judge against the appellant were erroneous and against the evidence led by the prosecution and, therefore, the conviction and sentence imposed by the learned Additional Sessions Judge be set aside and the appeal be allowed.

9. On the other hand, learned APP, Mr. I.M. Pandya, has vehemently submitted that evidence of P.W.9, Dahyabhai Gajubhai, had established beyond doubt that he had witnessed occurrence of the incident where the appellant was seen giving fatal blows with muddamal dharia on the neck of deceased Ganga. It is further submitted by the learned APP that the evidence of P.W.1, Sikanderbhai Kamrubhai Malek, and PW 10, Kanchanlal Kalidas Patel, had proved beyond doubt that the appellant had made extra judicial confession before the above witnesses that he had committed murder of his wife, Ganga, as she wanted to kill his son, Shantilal, and had also made an attempt to finish the appellant. It is also

submitted that the appellant had a strong belief that deceased, Ganga, was a witch and, therefore, with deliberate intention and knowledge, he had inflicted fatal blows on her neck to commit her murder. It is submitted that the confession made by the appellant before the witness is not a weak piece of evidence, but, looking to the facts of the present case, the said confession was proved by the evidence of independent witnesses and, furthermore, the said piece of evidence in the nature of confession was corroborated by the eye-witness, PW.9, Dahyabhai Gajubhai, and other circumstantial evidence. In light of the above submissions, the learned APP has submitted that the prosecution had proved beyond doubt the case against the appellant and, therefore, the appeal be dismissed and the conviction and the sentence be confirmed.

10. The incident had taken place on July 18, 1993 around 22.30 hrs. The body of deceased Ganga was thrown in the waters of ravine by the appellant after she was done to death. Her body was recovered by the Investigating Officer on July 19, 1993. The dead body of deceased Ganga had become swollen as it had remained in waters for more than 24 hours. P.W.2, Dr. Sunil Nagori, who was Medical Officer of the Government Hospital, at Halol, had carried out autopsy of the body of deceased Ganga. In the oral testimony, P.W.2, Dr. Sunil Nagori, described the internal injuries as under:

"Incised wound at the level of upper part of right ear about 4 cm x 1.1/2 cm x 1/2 cm bone deep with bone cut and brain matter seen oblique;
Incised wound along right mendible about 8 cm x 2.1/2 cm x 3 cm deep all great several cut.
Incised wound right side of neck 3 cm x 1/2 cm x 1/2 cm."

The said injuries were also mentioned in Column 17 of the post-mortem notes Exh.17. As per the oral testimony of P.W.2, Dr. Sunil Nagori, due to the injuries on the head, the death was instantaneous. He also deposed that external injuries mentioned in Column No.17 of the post-mortem notes Exh.17 were possible by sharp-cutting instrument like dharia. P.W.2, Dr. Sunil Nagori, had categorically deposed that the injuries inflicted by dharia on the head were sufficient in the ordinary course of nature to cause death. In view of the oral testimony of P.W.2, Dr. Sunil Nagori, and the post-mortem notes Exh.17, we are of the view that deceased Ganga had died homicidal death. Therefore, the finding of the learned Additional Sessions judge to that effect deserves to be confirmed.

11. P.W.9, Dahyabhai Gajubhai, was residing in the neighbourhood of the appellant. The map of the place of the incident Exh.34 shows that the house of P.W.9, Dahyabhai Gajubhai, was situated just adjoining the house of the appellant. He deposed that around 10 p.m. on the day of the incident, he was taking his meals at his house and, at that time, he saw that the children were running helter skelter and, therefore, he came out of his house leaving his dinner and saw that the appellant had inflicted blows with dharia on deceased Ganga. It be stated that the incident had taken place outside the house of the appellant and, therefore, the witness, as soon as he came out of his house, saw appellant inflicting dharia blows on deceased Ganga. The witness deposed that, after the incident had taken place, he had run away from his house due to fear. In cross examination, P.W.9, Dahyabhai Gajubhai, deposed that the persons residing in the locality were of the belief that deceased Ganga had become a witch. In cross examination, the witness also deposed that deceased Ganga had thrown the appellant on the ground and had overpowered him and had also tried to strangulate the appellant. His evidence in cross examination had indicated that there was a scuffle between the appellant and the deceased for ten minutes and, thereafter, the appellant had inflicted blows with dharia on the neck of the deceased. In cross examination, the witness also admitted that he did not interfere in the scuffle between the appellant and the deceased as he was afraid of deceased Ganga because she was a witch. In our view, the evidence of P.W.9, Dahyabhai Gajubhai, had proved beyond doubt that the appellant had inflicted dharia blows on the vital parts of the body of the deceased with full knowledge and intention to cause her death. Successive blows inflicted on the neck of the deceased were sufficient in the ordinary course of nature to cause her death. We have scanned through the evidence of P.W.9, Dahyabhai Gajubhai, and we are of the view that P.W.9, Dahyabhai Gajubhai, being a neighbour of the appellant, had witnessed occurrence of the incident wherein the appellant had given fatal blows with dharia on the neck of deceased Ganga. The testimony of P.W.9, Dahyabhai Gajubhai, was not dislodged during cross examination. In our view, P.W.9, Dahyabhai Gajubhai, is truthful and reliable witness.

12. After the deceased was done to death, accused No.4, Shantibhai Motibhai Patel, accompanied by P.W.10, Kanchanlal Kalidas Patel, had gone to the house of P.W.1, Sikanderbhai Kamrubhai Malek, Deputy Sarpanch of Madhasar

Group Gram Panchayat. P.W.10, Kanchanlal Kalidas Patel, had informed P.W.1, Sikanderbhai Kamrubhai Malek, about the incident wherein the appellant had killed his wife by inflicting dharia blows on her neck. P.W.1, Sikanderbhai Kamrubhai Malek, had, thereafter, gone to the house of P.W.7, Fatesinh Vajesinh Rathod, Sarpanch of Madhasar Group Gram Panchayat, which was situated at village Madhasar. P.W.7, Fatesinh Vajesinh Rathod, instructed P.W.1, Sikanderbhai Kamrubhai Malek, to go to the place of the appellant to enquire about the manner in which the incident had taken place and, if necessary, to lodge First Information Report before the concerned police station. When P.W.1, Sikanderbhai Kamrubhai Malek, accompanied by P.W.10, Kanchanlal Kalidas Patel, had gone to the house of the appellant, he was not found there. P.W.1, Sikanderbhai Kamrubhai Malek, thereafter, had gone to the house of the mother of the appellant situated in village Gatmuvada wherein the appellant was found sleeping. The appellant, when came out of the house, had made voluntary disclosure wherein he had confessed before P.W.1, Sikanderbhai Kamrubhai Malek, and P.W.10, Kanchanlal Kalidas Patel, that the deceased had tried to kill the son of the appellant and the appellant had believed that she had become a witch and she also wanted to finish him (appellant). The appellant had also confessed before P.W.1, Sikanderbhai Kamrubhai Malek, and P.W.10, Kanchanlal Kalidas Patel, that a scuffle had taken place between him (appellant) and the deceased where the deceased had overpowered the appellant and had thrown him on the ground. The appellant had also made confession before P.W.1, Sikanderbhai Kamrubhai Malek, and P.W.10, Kanchanlal Kalidas Patel, that thereafter the appellant had taken out muddamal dharia and inflicted two blows on the neck of the deceased. The said confession was made by the appellant before P.W.1, Sikanderbhai Kamrubhai Malek, and P.W.10, Kanchanlal Kalidas Patel. Both the witnesses were cross examined with regard to confession made by the appellant, but nothing was brought on record to dislodge their say about the voluntary confession made by the appellant before them. The evidence of P.W.1, Sikanderbhai Kamrubhai Malek, and P.W.10, Kanchanlal Kalidas Patel, with regard to extra judicial confession made by the appellant before them, inspires confidence. Their evidence is reliable, trustworthy and there cannot be any manner of doubt to raise any suspicion that they are making out a false case against the appellant. The oral testimony of eye-witness P.W.9, Dahyabhai Gajubhai, gets fully corroborated by the evidence of extra judicial confession made by the appellant before P.W.1, Sikanderbhai Kamrubhai Malek, and P.W.10, Kanchanlal Kalidas Patel.

13. Law does not require that the evidence of an extra judicial confession should in all cases be corroborated. Where the extra judicial confession was proved by an independent witness who was a responsible officer and who bore no animus against the appellant, the Supreme Court held that there was hardly any justification for the Sessions Judge to disbelieve the evidence of such a witness particularly when the extra judicial confession was corroborated by the recovery of an empty cartridge from the place of occurrence. (See: AIR 1977 Supreme Court 2274 Piara Singh and others vs. State of Punjab). In the facts of the present case, the extra judicial confession was made by the appellant before the Deputy Sarpanch of Madhasar Group Gram Panchayat, who was responsible officer and who was respected by all the persons living in the villages of Madhasar Group Gram Panchayat. The appellant had full confidence in P.W.1, Sikanderbhai Kamrubhai Malek, who was the Deputy Sarpanch of Madhasar Group Gram Panchayat. P.W.1, Sikanderbhai Kamrubhai Malek, was residing in the same village Gatmuvada. From the oral testimony of P.W.1, Sikanderbhai Kamrubhai Malek, it becomes clear that, when he had gone to the house of the appellant, and when the appellant was interrogated about the incident, he had voluntarily disclosed the manner in which the incident had taken place and the manner in which he had inflicted injuries with muddamal dharria on the neck of the deceased. The extra judicial confession made by the appellant, which is not shown to have been obtained by coercion, promise of favour or false hope, etc. is plenary in character and voluntary in its nature acknowledging his guilt. There is, therefore, no substance in the submission of the learned counsel for the appellant that the story of extra judicial confession made by the appellant was concocted.

14. We do not find on the reappraisal of the evidence of P.W.1, Sikanderbhai Kamrubhai Malek, and P.W.10, Kanchanlal Kalidas Patel, that the extra judicial confession made by the appellant was obtained by coercion, promise of favour or false hope. In our view, the conviction of the appellant can only be based on the extra judicial confession made by him before P.W.1, Sikanderbhai Kamrubhai Malek, and P.W.10, Kanchanlal Kalidas Patel. In the case of Madan Gopal Kakkad vs. Naval Dubey and another, 1992 Supreme Court Cases (Cri) 598, in paragraph 20, the Supreme Court, by following the principle laid down in Piara Singh (supra), has reiterated that, 'law does not require that the evidence of an extra judicial confession should in all cases be

corroborated'. Yet in another decision of the Supreme Court in the case of State of Bihar vs. Anirudh Thakur and others, reported in AIR 1998 Supreme Court 921, the Supreme Court has placed reliance on the oral confession made by accused No.1 before the Mukhia of village which was mentioned in the First Information Report lodged before the police station. In light of the above facts, the Supreme Court has observed that:

"We have, therefore, no doubt whatsoever regarding the prosecution evidence that A-1 had made the extra judicial confession before the Mukhia at 8.00 p.m. In our opinion, the trial Court was fully justified in relying upon the said confession and the High Court was not right in rejecting the same."

15. As stated earlier, in the present case, the oral testimony of P.W.9, Dahyabhai Gajubhai, and the extra judicial confession made by the appellant before P.W.1, Sikanderbhai Kamrubhai Malek, and P.W.10, Kanchanlal Kalidas Patel, had proved beyond doubt that the appellant had inflicted dharia blows on the neck of deceased Ganga with intention to cause her death. The above evidence also gets corroboration by other circumstantial evidence that the appellant had shown his willingness to produce muddamal dharia which was having stains like blood and was recovered under the panchanama drawn under Section 27 of the Evidence Act. Similarly, other incriminating circumstance against the appellant was that he himself led the Investigating Officer to the place called 'Dhuvar Kotar' (name of ravine) where the dead body of deceased Ganga was thrown in water. This incriminating circumstance also lend corroboration to the case of the prosecution that the appellant, after committing murder of deceased Ganga, had tried to dispose of her dead body so as to cause the evidence of the commission of offence to disappear 'with the intention of screening the appellant from legal punishment'. The appellant had acted in a most cruel manner and had inflicted dharia blows on the neck of the deceased with intention to cause her death. He had shown no mercy while inflicting blows and acted in a most cruel manner. As per the medical evidence, the blows inflicted on the neck of the deceased were sufficient in the ordinary course of nature to cause her death. The conviction of the appellant under Section 302 of the IPC and the sentence imposed on him, therefore, deserve to be confirmed. The conviction of the appellant under Section 201 of the IPC in disposing of the dead body of the deceased with a view to destroy evidence, also deserves to be confirmed in view of the

oral testimony of the witnesses as well as extra judicial confession made by the appellant before P.W.1, Sikanderbhai Kamrubhai Malek, and P.W.10, Kanchanlal Kalidas Pate.

16. As a result of foregoing discussion, the appeal fails and is dismissed. The conviction of the appellant under Sections 302 and 201 of the Indian Penal Code, and sentence imposed on him to undergo R.I. for life recorded by the learned Sessions Additional Judge, Panchmahals, at Godhra, are hereby confirmed. The muddamal be destroyed in terms of the direction given by the learned Additional Sessions Judge in the impugned judgment.

(M.H. Kadri, J.)

(Akshay H. Mehta, J.)
(swamy)